

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

TIMOTHY W. KING,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 3:05CV419
)	
JO ANNE B. BARNHART,)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

The defendant, Jo Anne B. Barnhart, the Commissioner of Social Security ("Commissioner"), has moved this Court, pursuant to sentence four of 42 U.S.C. § 405(g), to enter a judgment with reversal and remand of the cause to the Commissioner for further action.

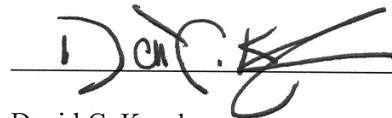
Upon remand, the Appeals Council will instruct the Administrative Law Judge ("ALJ") to reconsider whether Plaintiff can perform his past relevant work and, if not, whether he can perform other work that exists in significant numbers in the national economy.

Pursuant to the power of this Court to enter a judgment reversing the Commissioner's decision with reversal and remand, pursuant to sentence four of 42 U.S.C. § 405(g), and in light of the Commissioner's request to remand this action for further proceedings, and it appearing that Plaintiff consents, this Court hereby:

REVERSES the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) with a remand of the cause to the Commissioner for further administrative proceedings. *See Shalala v. Schaefer*, 509 U.S. 292 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89 (1991). The Clerk of Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure. As there

remains no justiciable dispute pending between the parties, upon the Clerk's entry of judgment, the Court's jurisdiction over this case shall terminate except for purposes of consideration and determination of motions for attorneys fees, including any motion for such fees under the Equal Access to Justice Act (EAJA). Plaintiff shall have thirty (30) days from final judgment in which to file any motion for attorneys fees under EAJA in this matter.

Signed: March 7, 2006



David C. Keesler
United States Magistrate Judge
